

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

FEB 11 2008

ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY W.H. DEPUTY

BRIAN S. MAFUKIDZE,

Petitioner,

vs.

ALBERTO GONZALES et al.,

Respondents.

No. CIV-07-871-W

ORDER

On January 14, 2008, United States Magistrate Judge Valerie K. Couch issued a Report and Recommendation in this matter and recommended that the Petition for a Writ of Habeas Corpus ("Petition") filed by petitioner Brian S. Mafukidze pursuant to title 28, section 2241 of the United States Code be denied. Mafukidze was advised of his right to object to the Report and Recommendation, but he has not filed an objection within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Couch's suggested disposition of this matter. Mafukidze, a native and citizen of Zimbabwe, is in the custody of the United States Immigration and Customs Enforcement ("ICE"), and he is subject to a final administrative order of removal and is awaiting deportation. Mafukidze has not challenged his order of removal in the instant Petition, but rather has challenged his continued detention at the Oklahoma County Detention Center, and he has sought release from ICE detention pending his deportation.

Because Mafukidze has failed to demonstrate that ICE lacks the statutory authority to detain him, e.g., 8 U.S.C. § 1231, and has failed to show that there is no significant

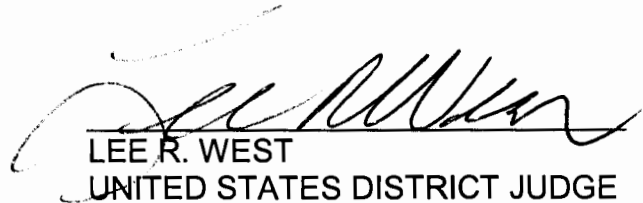
likelihood of removal in the reasonably foreseeable future, the Court finds Mafukidze is not entitled to the relief he has requested.

Accordingly, the Court

(1) ADOPTS the Report and Recommendation issued on January 14, 2008; and

(2) DISMISSES the Petition filed in this matter without prejudice to Mafukidze's ability to file a new petition under section 2241 should the circumstances of his detention change.

ENTERED this 11th day of February, 2008.



LEE R. WEST
UNITED STATES DISTRICT JUDGE